IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1794 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GULAMNABI RUSALBHAI VOHRA

Versus

DY COLLECTOR AND PRANT OFFICER

Appearance:

MR BG JANI for Petitioner

MR HM BHAGAT for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 06/03/2000

ORAL JUDGEMENT

1. Rule. Mr.Bhagat appears and waives service of the rule on behalf of the respondents. In the facts and circumstances of the case, the matter is taken up for final hearing today.

2. This petition is filed by the petitioner for an appropriate writ, direction or order quashing and setting aside the order dated 11.1.1999 passed by the Deputy Collector, Nadiad on January 11, 1999 - Annexure-C to the petition by which the application of the petitioner for renewal of licence as Stamp Vendor was rejected.

3. The case of the petitioner was that, he was doing a business as bond writer and stamp vendor since last about 20 years. For that purpose, the authority had granted licence. In pursuance of the said licence, he was doing his work at Nadiad. He made an application for renewal of licence which was rejected by the impugned order by the respondent authority inter alia on the ground that the petitioner had not done business during the year 1997 and in accordance with the provisions of the Gujarat Stamps Supply and Sales Rules, 1987, no renewal can be granted. The said order is challenged by the petitioner by filing this petition.

4. Several contentions were raised by the learned counsel for the petitioner. It was, however, submitted that the petitioner was not afforded an opportunity of hearing before passing the impugned order and cancelling the licence. It was also submitted that there is an error apparent on the face of the record committed by the respondent authority. This was not a case of not doing the business by the petitioner, but the petitioner could not do the business in view of the fact that his licence was renewed at belated stage in 1997.

5. Mr.Bhagat, on the other hand, supported the order passed by the authority. He submitted that though notice was issued calling upon the petitioner to remain present so that an appropriate order may be passed after hearing him. But the petitioner did not remain present and asked for adjournment which was rejected by the authority. On merits, he submitted that the petitioner had not done the business in 1997. The authority, hence, cannot be said to have committed an error in not renewing the licence. He, therefore, submitted that the order passed by the authority is legal and does not require interference.

6. In the facts and circumstances of the case, in my opinion, the petition deserves to be partly allowed. So far as observance of principles of natural justice is concerned, it is true that, notice was issued by the authority and the petitioner was asked to remain present on 9th December, 1998. But when a prayer was made for adjournment of the case and son of the petitioner was

present, in the interest of justice, the authority should have granted atleast one adjournment. Even on merits, the learned counsel for the petitioner rightly submits that in 1997, the petitioner could not do business. From the record, it clearly appears that the petitioner was doing the business since last about two decades. The learned counsel for the petitioner contends that it was not the case of not doing the business. He states that though the application for renewal was made by the petitioner within the time i.e. in December, 1996, an order renewing the licence was passed after about eight months i.e. on 28.8.1997.

7. For the foregoing reasons, the petition deserves to be allowed and the order passed by the authority on 2.1.1999 communicating the petitioner on 11.1.1999 at Annexure-C to the petition is quashed and set aside and the matter is remanded to the authority for passing appropriate order in accordance with law. Since the matter pertains to renewal of licence, the authority will decide the same as expeditiously as possible preferably within eight weeks from the receipt of the writ. Rule is made absolute. No order as to costs.

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